IN THE HIGH COURT OF UTTARAKHAND AT NAINTIAL

Writ Petition No. 962 of 2007 (S/S)

Hemendra Pratap Singh,
S/o Late Shri Meghendra Singh Chauhan,
R/o Seed Certification Inspector, Uttarakhand,
Regional Office Rudrapur,
Udham Singh Nagar.

…….. Petitioner.

Versus

(1) Board of Uttarakhand State Seed Certification Agency, through its Chairman/Principal Secretary Forest and Rural Development Commissioner, Secretariat, Dehradun.
(2) Director Uttarakhand State Seed Certification Agency, 12/IInd, Vasnat Vihar, Dehradun, Uttarakhand.
(3) Managing Director Uttaranchal Seeds and Tarai Development Corporation Limited, Haldi Pantnagar, Udham Singh Nagar.

…….. Respondents.

Sri S.N. Babulkar, Senior Advocate assisted by Sri Ravi Babulkar, learned counsel for the petitioner.
Sri. Paresh Tripahti, learned Brief Holder for the State/respondent no. 1.
Sri Rajendra Dobhal, learned counsel for respondent no. 3.

Hon, Prafulla C. Pant, J.

By means of this writ petition, moved under Article 226 of the Constitution of India, the petitioner has sought writ in the nature of certiorari, quashing the order dated 19.07.2007 (copy Annexure 12 to the writ petition), whereby the petitioner has been relieved and directed to report back to his Parent Department.

(2) Heard learned counsel for the parties.

(3) Brief facts of the case are that petitioner is working as Seed Certification Inspector In Regional Office of Uttarakhand State Seed Certification Agency, which is a registered society under the Societies Registration Act, 1860. It is stated in the writ petition that on 14.01.1991, petitioner was given posting as Seed Assistant in Uttar Pradesh Seeds and Tarai Development Corporation Ltd., Pantnagar. After completing ten years in said Corporation, it is stated that he was taken on deputation on 21.08.2001 with Uttarakhand State Seed Certification Agency and his Services were accordingly transferred to said Agency. It is further stated that ‘no objection certificate’ was issued for absorption of the petitioner with the aforesaid Uttarakhand State Seed Certification Agency by the authorities concerned, as such his lien stood terminated with Uttar Pradesh Seeds and Tarai

Development Corporation Ltd. Vide order dated 09.05.2003. As such, the petitioner has challenged the impugned order on the ground that after he lost the lien in the matter establishment, he cannot be repatriated back to the Parent Department.

(4) Separate counter affidavits have been filed by respondent no. 2 and respondent no. 2. On behalf of respondent no. 2 i.e. Uttarakhand State Seed Certification Agency, it is stated that the petitioner did not fulfill the conditions required for merger of his services in the Uttarakhand State Seed Certification Agency, It is further stated that he got entry in the new establishment by concealing the facts and by making declarations. It is further stated that he was not even qualified for the post he is holding.

(5) In the counter affidavit of respondent no. 3 i.e. Uttaranchal Seeds and Tarai Development Corporation Ltd., Pantnagar, which the body stepped into the shoes of Uttar Pradesh Seeds and Tarai Development Corporation Ltd., where the petitioner was initially appointed, has admitted that respondent no. 2 sought consent of the Parent Department and the same was given to take back the petitioner in said Organization (Parent Department).

(6) Rejoinder Affidavits have also been filed on behalf of the petitioner, in which the averments made in the writ petition are reiterated and stated that the decision taken by

respondents no. 2 and 3 are against the decisions taken by the Board.

(7) The impugned order dated 19th July 2007, copy of which is annexed as Annexure 12 to the writ petition, shows that the petitioner is relieved from Uttarakhand State Seed Certification Agency for giving his joining back in the Parent Department.

(8) Learned counsel for the respondent no. 2 drew attention of this Court to the contents of Para 2 of its counter affidavit, which contains following averments:-

"(A) That besides non fulfilling the requisite qualification the petitioner was awarded an adverse entry for the year 1991-92 also the following adverse entry was recorded in the character roll of the petitioner:-

"He is not faithful for corporation. Over all grading "C". I agree with JT.C.S.P.O.. He is not trustworthy and involved in corrupt practices"

Despite the said entry being recorded in the service record of the petitioner, the petitioner concealed the said entry and the factum of rejection of representation made by the petitioner against the said adverse entry. The true copy of the said adverse entry for the year 1991-92 and the rejection of representation dated 16/11/1992 are being annexed as Annexure C.A. 1 & 2 to the counter affidavit.

(B) That it is also pertinent to point out here that the petitioner was awarded a censor entry in the year 2001 and the petitioner represented against the said entry but the representation was rejected by the corporation. The true copy of the censor entry for 2000-01 and the rejection of representation against the said entry dated 25/09/2001 are being annexed as Annexure C.A. 3 & C.A. 4 to the counter affidavit.

That it is also pertinent to point out here that the petitioner who was well aware of aforesaid two adverse entries being recorded in his service records submitted an undertaking before the Board that the has not been awarded any adverse entry at any point of time and, thus, the petitioner submitted a false undertaking in the department and has not disclosed that the representations filed by the petitioner against the adverse entries has been rejected by the corporation. The true copy of the undertaking submitted by the petitioner on 14/08/2002 is being annexed as Annexure C.A 5 to the counter affidavit respectively.

(C) That the petitioner, besides the aforesaid, does not fulfill the conditions in as much as the petitioner possess M.Sc. (Ag) in Agriculture Extension while the minimum requisite qualification prescribed for the post of Seed Certification Inspector is "Degree in Agriculture followed by M.Sc. (Ag) in Agriculture Botany/ Genetics and Plant Breeding / Horticulture / Seed Technology / Agronomy/ Plant Pathology" and, thus, the petitioner is not qualified to be absorbed as Seed Certification Inspector. The true copy of

the relevant extract of the byelaws of the agency prescribing essential qualification for the post of Seed Certification Inspector is being annexed as Annexure C.A. 6 to the counter affidavit."

(9) In view of the above averments, it is argued by respondent no. 2 that entry was obtained by the petitioner in the Organization of answering respondent not only by concealing the facts but also by making false declarations. In this regard, attention of this Court is drawn to Annexure C.A. 5 to the Counter affidavit filed by respondent no. 2, which I copy of the declaration made by the petitioner, in which he has stated that he had been awarded no adverse entry. Apart from this, copy of the order dated 08.09.1992, which is copy Annexure C.A. 1 to the counter affidavit filed by respondent no. 2, shows that he was given and communicated following adverse entry:-

"*He is not faithful for Corporation. Overall Grading "C".*

Reporting Officer

"I agree with Jt.C.S.P.O..
He is not trustworthy and involves in corrupt practice."

Approving Authority."

Not only this, Annexure C.A. 3 to the counter affidavit filed by respondent no. 2, shows that the petitioner was given a censor entry for his indecent and act of indiscipline, which was communicated to him vide letter dated 20.02.2001.

(10) The above mentioned documents show the conduct of petitioner and also disclose that what he has concealed from respondent no. 2 Organization has been concealed from this Court also.

(11) The counter affidavit filed by respondent no. 3 (which is Parent Department of the petitioner) shows that the Parent Department has given its consent to take back the petitioner to respondent no. 2 vide letter dated 17th July 2007, a copy of which is Annexure C.A. 2 to the counter affidavit filed by respondent no. 3. Since the petitioner has not come with clean hands, this Court is not inclined to grant relief sought in the writ petition.

(12) In the above circumstances, this writ petition is liable to be dismissed. The writ petition is dismissed. Interim order dated 26th July 2007, passed by this Court stands vacated.

(The Stay Vacation Application also stands allowed).

(Prafulla C. Pant, J.)

Dt.21.09.2007.
NS